

REMARKS

Claims 1-34 were previously pending in this application. In an Office Action mailed September 23, 2008 ("Office Action"), the Examiner provisionally rejected claims 1, 16, and 23 on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 14, and 21 of copending Application No. 10/517,344; rejected claims 16-22 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter; rejected claims 1, 2, 4, 13-34 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0033211 A1 (Haines) in view of U.S. Patent No. 6,026,390 A (Ross); rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over Haines in view of Ross, further in view of U.S. Patent No. 5,600,554 (Williams); rejected claims 5-10 under 35 U.S.C. §103(a) as being unpatentable over Haines in view of Ross, further in view of Official Notice; and rejected claims 11-12 under 35 U.S.C. §103(a) as being unpatentable over Haines in view of Ross, further in view of Visual Rota ("Cash Budgets & Budgetary Control").

In response to the Office Action, Applicants will consider the appropriateness of filing a terminal disclaimer once allowable subject matter has been determined. Further, Applicants have amended claims 1, 15-23, 30, 32, and 34; and have cancelled claims 31 and 33. Upon entering these amendments, claims 1-30, 32, and 34 will be pending in this application. These amendments add no new matter and are fully supported by the specification. Applicants respectfully traverse the remaining rejections and request reconsideration based on the following remarks. In addition, Applicants do not necessarily agree with or acquiesce in the Examiner's characterization of the claims or the cited references, even if those characterizations are not addressed herein.

Claim Rejections Under Double Patenting

The Examiner provisionally rejected claims 1, 16, and 23 on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 14, and 21 of

copending Application No. 10/517,344. The 10/517,344 application is still pending and a determination of an obviousness-type double patenting is premature. Applicants will consider the appropriateness of filing a terminal disclaimer once allowable subject matter has been determined.

Claim Rejections Under 35 U.S.C. §101

The Examiner rejected claims 16-22 under 35 U.S.C. §101 as being drawn to non-statutory subject matter. In particular, the Examiner indicated that "a process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing" (Office Action, p. 3). Applicants have amended claim 16 to recite, inter alia, "[a] computer-implemented method for evaluating and controlling human resource budgets, comprising: retrieving human resource data from a computer database ... [and] storing said projected human resource budget in a computer storage." Applicants have also accordingly amended claims 17-22, and 30, all of which, either directly or indirectly, depend from claim 16. Therefore, Applicants submit that claims 16-22, and 30, as amended, are directed to statutory subject matter, and respectfully request reconsideration and withdrawal of the rejection of claims 16-22 under 35 U.S.C. §101.

Claim Rejections Under 35 U.S.C. §103

Applicants respectfully traverse the Examiner's 35 U.S.C. §103(a) based rejections of claims 1, 2, 4, 13-34 over Haines in view of Ross; claim 3 over Haines in view of Ross, further in view of Williams; claims 5-10 over Haines in view of Ross, further in view of Official Notice; and claims 11-12 over Haines in view of Ross, further in view of Visual Rota, because the Examiner has not established a *prima facie* case of

obviousness with respect to these claims. Although Applicants respectfully disagree with the basis for the Examiner's rejections, in the interest of expediting allowance of the pending claims, Applicants have amended claims 1, 15, 16, 23, and 34; and submit that the claims, as amended, even more clearly distinguish the claimed invention from the cited references.

Claim 1

Applicants contend that the cited references, whether considered alone or in combination, do not teach or suggest every element of claim 1. In his assertion to the contrary, the Examiner stated that:

Haines further teaches evaluating a budget for a given object for a predefined period of time based on retrieved data from the database; storing a result of the evaluation, monitoring the budget during the predefined period of time, and providing an automatic notification to a user based on the monitoring (see paragraphs 139-140). Haines does not teach using the invention to monitor a human resource budget. Ross teaches budgeting for human resources (column 3 lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the budget monitoring of Haines to include budgeting for human resources. One skilled in the art would have been motivated to make the modification since it is the application of a known technique to a known method ready for improvement to yield predictable results, the predictable results being ascertaining the difference between budgeted expenses and actual expenses (Office Action, p. 5, emphasis added).

Applicants, however, respectfully disagree, and contend that claim 1 recites more than the Examiner addressed in his rejection, and further that Haines is missing elements of the claim not noticed by the Examiner, and Ross does not supply that which Haines is missing.

Contrary to what is stated in the Office Action, the recited invention of claim 1 does not merely ascertain the difference between budgeted expenses and actual expenses. Instead, the commitment engine, as recited in claim 1, performs

evaluating a projected human resource budget ... for a predefined period of time ... further ... monitoring changes in said projected human resource budget during said predefined period of time, and providing an automatic advance notification to a user if the projected human resource budget exceeds a fund reserved for the given human resource object for said predefined period of time.

Applicants contend that neither Haines, nor Ross, nor a combination of Haines and Ross, teach or suggest all of the above elements.

Haines generally "provides a system for implementing a purchaser incentive program on a network-wide level. The system associates SKU and UPC data on a network level to provide consumers with a purchasing environment that is both convenient and cost-efficient" (Haines, Abstract). Ross, on the other hand, provides a cost-based maintenance of materialized views in databases by "incrementally maintaining a first materialized view of data in a database, by means of an additional materialized view" (Ross, Abstract). In his rejection of claim 1, the Examiner drew our attention to the following sections from Haines:

In one aspect of the analysis, budgeted items and actual items are correlated with each other based upon the standard identifiers (step 1416). That is, a budgeted item that is designated by product category is correlated with an actual item that is associated with a retailer ID that corresponds to the appropriate product category. Likewise, a budgeted item that is designated by specific product is correlated with an actual item that is associated with a UPC that corresponds to that specific product. In one embodiment, the analysis performed by data analysis application 1214 may include a comparison of the established budget to actual purchase activity and/or a real-time or periodic reconciliation of budgeted items with actually purchased items (step 1418). A budget reconciliation may include displaying or printing a comparison of budgeted items and/or budgeted funds with actually purchased items and/or actual funds spent for a selected period (e.g., the budget period or any period within the budget period). In another embodiment, the analysis may include actual or projected

cash flow analyses based upon the actual funds spent in a given period, for example.

In one embodiment, the analysis may include an alert when a budget reconciliation determines that over- or under-spending has occurred, including when over- or under-spending occurs in specific product categories or for specific products (step 1420). In this context, under-spending means that budgeted funds have not yet been spent. Moreover, the budget reconciliation includes a pre-set percentage or amount has been spent or not been spent in a category or over a set number of categories. In one embodiment, the consumer is alerted by consumer terminal 1212. In another embodiment, the consumer system 1206 transmits an alert to a third-party, such as a financial advisor for example (Haines: ¶139-40, emphasis added).

The above excerpts show that Haines at most sends an alert when an over-spending or under-spending has already occurred. Nowhere does Haines teach or suggest “monitoring changes in [a] projected human resource budget ... and providing an automatic advance notification to a user if said projected human resource budget exceeds a fund reserved for [a] human resource object” as claimed, and as also supported by the specification, for example, in ¶31.

Further, Ross does not cure the deficiencies of Haines. Specifically, as the excerpts cited by the Examiner show, in Ross

a corporate database [has] two base relations: Dept (DName, MName, Budget), which gives the manager and budget for each department, and Emp (ENAME, DName, Salary), which gives the department and the salary of each employee. [A] materialized view ... determines those departments whose expense (i.e., the sum of the salaries of the employees in the department) exceeds their budget. When the database relations Emp and Dept are updated, view maintenance of a ProblemDept, even using incremental techniques, can be expensive. For example, when a new employee is added to a department that is not in ProblemDept, or the salary of an employee in such a department is raised, the sum of the salaries of all the employees in that department needs to be recomputed and compared with the department's budget (Ross: col. 3, ll 40-64, emphasis added).

Therefore, Ross finds out about departments whose expenses exceed their budgets after the fact, and not in advance.

Applicants believe that, at least for the above reasons, claim 1 is patentable over Haines, or Ross, or a combination of Haines and Ross.

Claims 16 and 23

Independent claims 16 and 23, as amended, recite limitations similar to those of claim 1. Thus, Applicants contend that at least for the reasons stated above, claims 16 and 23 are patentable over the cited references.

Claim 34

Independent claim 34 also recites limitations similar to those of claim 1, which are not taught by Haines and Ross. In addition, claim 34 recites that “[the] commitment engine [is] configured for ... evaluating a projected human resource budget ... based on the retrieved human resource data including pre-commitment data concerning both vacant and occupied positions”. In his rejection of claim 34, the Examiner stated that “Ross teaches pre-commitment data concerning both vacant and occupied positions. The pre-commitment data concerning occupied positions is the salaries of the employees in the department. The data concerning vacant positions is the budget itself” (Office Action, p. 8). Applicants, however, respectfully disagree that Haines teaches or suggests using the claimed data concerning vacant positions. Specifically, because these data are retrieved to evaluate the claimed budget, they can only be construed as entities that are distinct from that budget and thus, contrary to what the Examiner asserted, can not be “the budget itself”. Ross does not cure these deficiencies either, because Ross does not discuss anything related to vacant positions. Therefore,

Applicants believe that, at least for these reasons, claim 34 is patentable over Haines, or Ross, or a combination of Haines and Ross.

Claims 19 and 26

Claims 19 and 26 depend from independent claims 16 and 23, respectively, and therefore include the limitations of those independent claims, which are not taught by Haines and Ross. In addition, claims 19 and 26 recite

performing, based on a human resource budget preparation, a reservation step for a human resource position only, then performing a pre-commitment step for occupied and vacant human resource positions based only on retrieved human resource position data, and then performing a commitment step for human resource objects based only on retrieved human resource object data, and a subsequent adaptation of one or more results of said respective prior steps.

In his rejection of claims 19 and 26, the Examiner stated

[r]egarding claims 19 and 26, Haines teaches performing, based on a budget preparation, a reservation step (budget), then performing a pre-commitment step based only on retrieved data (budget), and then performing a commitment step for objects based only on retrieved object data (remaining budget), and a subsequent adaptation of the one or more results of said respective prior steps (remaining budget) (Office Action, p. 7).

Thus, the Examiner alleges that Haines teaches the above steps through its budget or remaining budget. But Haines does not include any teaching regarding a "remaining budget." Further, Haines implicitly defines his budgeting process in the following excerpts:

FIG. 14 is a flowchart illustrating an exemplary process for analyzing a consumer's purchasing activities. In an exemplary aspect, consumer system 1206 communicates with rewards server 1204 to standardize the data used by data analysis application 1214. In one embodiment, a consumer communicates with rewards server 1204 while the consumer uses data analysis application 1214 to prepare a budget. The consumer accesses rewards server 1204 to select the various items that the consumer intends to purchase over the budget period (step 1402). The budget period may be for any predetermined period of time, such as a week, a month, six month, a year, etc. In one embodiment, the rewards server 1204 facilitates item selection by designating items by product category (e.g., clothes, electronics, sports

equipment, etc.) or by specific product (e.g., jeans, stereo, bicycle, etc.), including specific products by particular manufacturers. For each item selected by the consumer, rewards server 1204 transmits an appropriate standard identifier to consumer terminal 1212 (step 1404). If a consumer designates a selected item by product category, the rewards server 1204 transmits a standard identifier that corresponds to a product category that is associated with the retailer ID of retailers who sell items in that product category. If a consumer designates a selected item by specific product, the rewards server 1204 transmits a manufacturer item identifier (e.g., UPC) that corresponds to that specific product. The consumer then completes the budgeting process by indicating the amount of funds that the consumer intends to spend on each of the selected items (i.e., budgeted funds) (step 1406). The data analysis application 1214 then determines an amount of funds that corresponds to the total budget for the budget period (step 1408), and the established budget is stored by consumer terminal 1212 (step 1410). The consumer system 1206 may terminate the session with the rewards server 1204 any time after receiving the appropriate standard identifiers (Haines, ¶¶ 136-37).

Therefore, Haines defines budgeting as the consumer selecting items that she intends to purchase and indicating the amount of funds that she intends to spend on each of the selected items. Nowhere, neither for budgeting nor in any other context, does Haines teach or suggest the combination of a reservation, a pre-commitment, and a commitment step as recited in claims 19 and 26, i.e., a reservation step that is performed for "human resource positions only," a pre-commitment step that is performed for "occupied and vacant human resource positions" and is "based only on retrieved human resource position data," and a commitment step that is performed for "human resource objects" and is "based only on retrieved human resource object data." These elements are also supported by the specification, which, for example, states that

[i]n certain embodiments, the calculation and reservation of funds is done in three steps, namely a reservation step, a pre-commitment step and a commitment step. In the reservation step, calculation is performed on the basis of the budget preparation result only for a position. The result of this calculation is adapted after a budget preparation run for this position. In the pre-commitment step, calculation is performed only for vacant and for occupied positions, under consideration of the according data sources for vacant positions and occupied positions, and a simulation for the fiscal year's costs is performed. The result of this precommitment step might affect the result of the first reservation step and adaptation might become necessary. In the commitment step, the system

calculates needed funds in connection with persons only. Calculation is performed on the basis of human resource data sets and a payroll simulation is performed. Again, the result of this step might affect the result of a prior pre-commitment step and adaptation might become necessary. The results of the two latter steps may need to be adapted when changes to the according data sets for positions and/or human resource objects occur (§30).

Applicants thus contend that, at least for the above reasons, claims 19 and 26 are patentable over Haines, Ross, or a combination of Haines and Ross.

All of the other rejected claims depend from one of claims 1, 16, 19, 23, and 26, and thus, at least for the reasons stated above, they are patentable over the cited references.

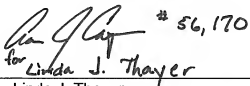
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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